

MONTANA RIGHT-OF-WAY DESIGN MANUAL

Chapter Twenty-Five DEED EXHIBIT PREPARATION (ACTIVITY 820)

Table of Contents

<u>Secti</u>	<u>Section</u>			
25-1	EXHIBIT PROCEDURES			1
	25-1.1	Parcel Ex	hibits	1
		25-1.1.1	R/W Acquisition	2
		25-1.1.2	Easements	2
		25-1.1.3	Additional Section Ties	4
		25-1.1.4	Tract of Land Descriptions	4
25-2	ACQUISITION DEEDS			8
	25-2.1	Deed Form	8	
	25-2.2	Deed Inse	9	
	25-2.3	Legal Des	10	
25-3	LOCATION AND DISTRIBUTION			13
	25-3.1	Saving De	13	
	25-3.2	Distributin	14	
25-4	DEED & EXHIBIT SPECIAL REQUIREMENTS			
	25-4.1	DNRC and	15	
	25-4.2	4.2 Railroad Parcels		
	25-4.3 US Forest Service			18
	25-4.4	5-4.4 BLM, United States of America & Bureau of Reclamation		
	25-4.5 Tribal Indian			19

Chapter Twenty-Five DEED EXHIBIT PREPARATION (ACTIVITY 820)

25-1 EXHIBIT PROCEDURES

An exhibit is a reduced size 11 in X 17 in reproduction of the r/w plan sheets. The exhibit shows only essential information from the plans representing the correct size and shape of a property to scale. The exhibit defines, by dimensions from the centerline, the area of acquisition. The Right-of-Way Bureau designs all acquisitions in accordance with the *Montana Annotated Code (MCA)*. MCA 76-3-209 provides for an "Exemption from surveying and platting requirements for lands acquired for state highways". MCA 60-2-209 provides for the "Description and plan of new highway or reconstructed or controlled-access facility."

Refer to Section 22-1.2 for instructions on preparation of master and parcel exhibit CADD files. Exhibits should be prepared and distributed with the deeds shortly after the r/w plans are authorized.

25-1.1 Parcel Exhibits

A parcel exhibit should be prepared for each parcel having r/w or easement involvement. It should include one sheet for every plan sheet showing acquisition and contain information such as the parcel number, sheet numbers and prepared/revised dates, as well as other information specified in this section.

The parcel exhibit should include only specific information from the plans as follows:

- 1. r/w ID number;
- 2. project control number;
- designation;
- 4. section and 1/16 quarter sections; US Government Lots, patented mineral survey numbers, Indian and/or tribal allotment numbers; homestead entry survey numbers; certificate of surveys; and lot, block and subdivision text;
- 5. north arrow, township and range;
- 6. centerline data, which includes highway survey stationing and bearings;

- 7. centerline curve data;
- 8. new right-of-way line, including highway survey station breaks with dimensions;
- 9. existing right-of-way or easement lines with width dimensioned;
- railroad right-of-way including width; railroad centerline should not be shown; railroad stationing only shows on the railroad exhibits, so be sure it is on a level in the strip map file that can be turned off;
- access control line and symbology, including highway survey station breaks and dimensions; road approach box should not be shown on exhibits. This only applies for access control projects;
- 12. ownership lines and property boundary symbology; a series of dots along the inside of the property lines;
- 13. parcel numbers;
- 14. section corner ties; text containing XY coordinates or a bearing and distance from a property-controlling corner;
- 15. topography is not shown, except waterways, irrigation canals, county road and street names; occasionally, a lake, river or stream may need to be copied into the active file if the project affects it; and
- 16. construction permits and callouts, road approaches and dimensions are not shown.

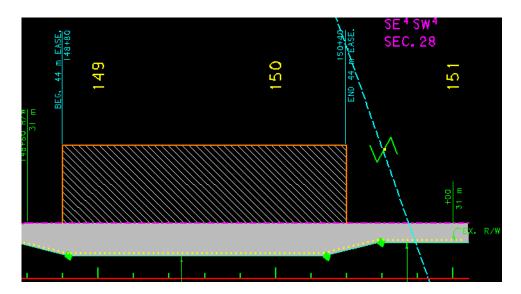
25-1.1.1 R/W Acquisition

Areas of r/w acquisition should be shaded. Refer to Section 22-2.6 for instructions on showing shading.

25-1.1.2 Easements

Easement areas are shown in various ways depending on what they are for. See Figures 14B and 15B in Appendix B. Listed below are a few situations that may apply:

1. An easement to be acquired in the name of MDT for our benefit and use in combination with fee r/w acquisition would need to be hatched, as shown in Figure 25-1.



HATCHED EASEMENT Figure 25-1

An element showing hatching as easement acquisition must be added to the legend at the bottom of the exhibit sheet containing the easement, as shown in Figure 25-2.



HATCHED EASEMENT LEGEND Figure 25-2

- 2. An easement to be acquired in the name of MDT for our benefit and use without additional fee r/w acquisition for that parcel should be shown as shaded on an exhibit.
- 3. An easement to be acquired in the name of someone other than MDT should have a separate exhibit prepared with only the easement area shaded. See Figures 8B through 11B in Appendix B.

25-1.1.3 Additional Section Ties

Below is a list describing when section ties are to be calculated and added to the exhibit sheets. If the parcel exhibit set is:

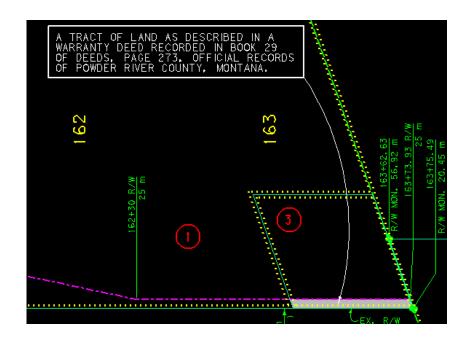
- 1 sheet, there must be 1 section tie included on the sheet;
- 2 sheets, there must be 1 section tie included within the exhibit set;
- 3-4 sheets, there must be 1 section tie included on the first and last sheets; and
- 5 or more sheets, there must be 1 section tie on the first sheet, one on a middle sheet and one on the last sheet.

When it is determined you need an additional section tie, you will need to calculate one from an even station to the nearest found section corner and place it in your exhibit parcel file. Every effort is made to calculate a section tie with the distance being no more than 1 mi (1.6 km). If Geopak was used to calculate original section ties, it can also be used to calculate additional section ties. Refer to Section 5 — Calculating Section Ties With Geopak in the *R/W Geopak 2001 Procedural Manual*.

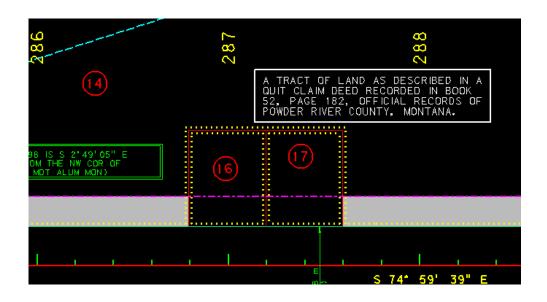
25-1.1.4 Tract of Land Descriptions

A tract of land description is text included on the exhibit being the recording information from the last document(s) of record. The following are four examples of times you would include a tract of land description.

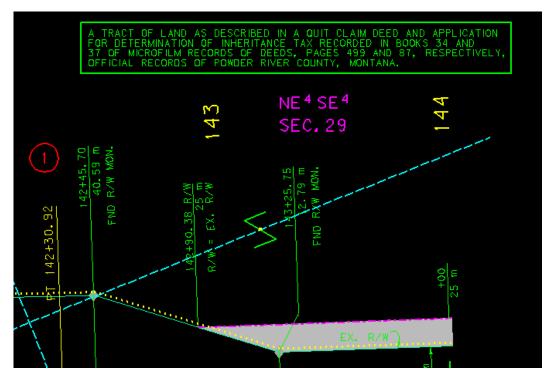
- 1. <u>Property Line is Un-Described Line</u>. A tract of land description is needed when the property boundary is an un-described line. Described lines are considered section lines, COS boundaries, and existing right-of-way/easement lines. In Figure 25-3, it is needed because the property lines between parcel 1 and parcel 3 are un-described lines.
- 2. <u>Un-Described Line Breaks Property Line</u>. A tract of land description is needed when an un-described line, such as parcels 16 and 17 in Figure 25-4, breaks a property line.
- Multiple Deed Acquisition. A tract of land description is needed when more than
 one deed is used to acquire the property. In Figure 25-5, the property owner
 acquired the property by a quit claim deed and an application for determination of
 inheritance tax.



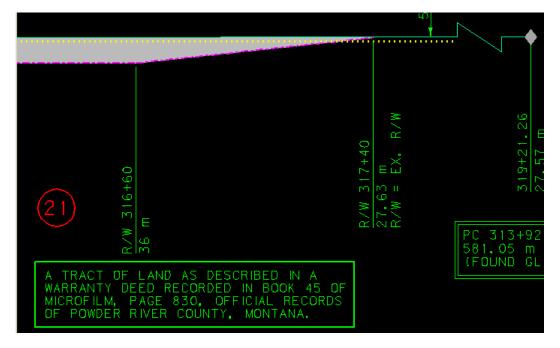
PROPERTY LINE IS UN-DESCRIBED LINE Figure 25-3



UN-DESCRIBED LINE BREAKS PROPERTY LINE Figure 25-4



MULTIPLE DEED ACQUISITION
Figure 25-5



PROPERTY LINE NOT SHOWN
Figure 25-6

4. <u>Property Line Not Shown</u>. A tract of land description is needed when the beginning and/or ending property line of the parcel is not shown within the exhibit set. Figure 25-6 is the last sheet of the exhibit set, but the end of parcel 21's property is not shown.

If it is determined that you need a tract of land description, you will need to use the "TRACT" cell on the first sheet of the exhibit set within the parcel area being described. If the parcel area is too small, the cell can be placed outside the described area and arrowed in. You will need to drop status on the text to delete unnecessary spaces and adjust the border for proper appearance.

25-2 ACQUISITION DEEDS

When MDT acquires right-of-way, a bargain and sale deed is used most often. A quit claim deed may be used at times when the chain of title is clouded or there is an area of conflict. On rare occasions, total acquisition of a parcel is necessary and a warranty deed is used. This is not to be confused with uneconomic remainder acquisition. See Appendix K for definitions of various conveyance instruments.

Deeds are prepared when the parcel exhibits are complete. They are distributed with the exhibits after the r/w plans are authorized. Standard forms and inserts are used with specific information to be filled in. Different forms and inserts are available for particular types of acquisition and legal descriptions. Refer to Appendix B for samples of various deeds and easements.

25-2.1 Deed Forms

Different types of deed or easement forms are required for different types of acquisition. The form numbers and a description of when each would be used are as follows:

- <u>521 (Bargain & Sale Deed Individual)</u>. Used when the grantor(s) are individuals and not corporations. It is also used when grantor(s) are partnerships, LLCs, LLPs, Trusts or City or County Government. Use Inserts "INS-SL" or "INS-LB".
- 2. <u>520 (Bargain & Sale Deed Corporation)</u>. Used when grantor is a corporation as it contains special language and corporate notary acknowledgement. See Figures 16B and 17B in Appendix B. Use Inserts "INS-SL" or "INS-LB". Check with the Secretary of State's office to make sure the grantor is in fact a corporation and is active and in good standing. The Articles of Incorporation and/or the By-Laws will be on file with the Secretary of State's office. If the corporation has been dissolved, it still has the power to convey title for 5 years. The website for Secretary of States office is: http://www.sos.state.mt.us/css/index.asp. Then click on "Business Services," then "Business Entity Search."
- 3. <u>523 (Bargain & Sale Deed with Easement Individual)</u>. Used when grantor(s) is an individual conveying right-of-way and an easement and the grantee is MDT. Note that on the exhibit, the right-of-way acquisition area will be shaded and the easement area will be hatched. Use Inserts "INS-SL-EASE" or "INS-LB-EASE". Examples of easements to MDT would be "for the installation and maintenance of riprap", "drainage purposes", "roadway purposes" or "a channel change".

- 4. <u>522 (Bargain & Sale Deed with Easement Corporate)</u>. Same as above, but the grantor is a corporation. Use Inserts "INS-SL-EASE" or "INS-LB-EASE".
- 5. <u>526 (Easement Individual)</u>. Used when grantor(s) are conveying an easement for a specific purpose (i.e. to an adjacent landowner for access or irrigation purposes). Note that the easement area on the exhibit is shaded. Use Inserts "INS-EASE-SL" or "INS-EASE-LB".
- 6. <u>525 (Easement Corporate)</u>. Same as above, but grantor is a corporation. Use Inserts "INS-EASE-SL" or "INS-EASE-LB".
- 7. <u>528 (Highway Easement)</u>. Used when grantor(s) is conveying right-of-way by easement rather than fee title. Also used when right-of-way is to be acquired as an easement in the name of the county. Note that the easement area on the exhibit is shaded. Use Inserts "INS-HWY-SL" or "INS-HWY-LB".
- 8. <u>527 (Highway Easement)</u>. Same as above, but grantor is a corporation. Use Inserts "INS-HWY-SL" or "INS-HWY-LB". Note that the easement area on the exhibit would be shaded.
- 9. <u>530 (Quitclaim Deed Individual)</u>. Used when chain of title is clouded or there is an area of conflict. Use Inserts "INS-SL" or "INS-LB".
- 10. <u>529 (Quitclaim Deed Corporate)</u>. Same as above, but the grantor is a corporation. Use Inserts "INS-SL" or "INS-LB".

25-2.2 <u>Deed Inserts</u>

The deed inserts contain basic legal description language to be inserted in the deed forms below the granting clause. Specific information will need to be filled in:

- 1. <u>"INS-SL" (Section Land without Access Control)</u>. Used when describing land in sections, townships and ranges.
- 2. <u>"INS-LB" (Lot and Block without Access Control)</u>. Used when describing land in lots and blocks in subdivisions.
- 3. <u>"INS-SL-EASE" (Section Land without Access Control with Easement)</u>. Used when describing land in sections, townships and ranges with an additional easement.
- 4. <u>"INS-LB-EASE" (Lot and Block without Access Control with Easement)</u>. Same as above, but property is a lot and block.

- 5. <u>"INS-EASE-SL" (Section of Land w/Easement Only)</u>. Use with Form 526 or Form 525.
- 6. <u>"INS-EASE-LB" (Lot & Block w/Easement Only)</u>. Use with Form 526 or Form 525.
- 7. <u>"INS-HWY-SL" (Section of Land w/Easement Only)</u>. Use with Form 528 or Form 527.
- 8. "INS-HWY-LB" (Lot & Block w/Easement Only). Use with Form 528 or Form 527.

Access control projects require different deed inserts because of specific access control language needed on documents. Please refer to the *Access Control Deed Inserts Index*.

25-2.3 **Legal Descriptions**

There are many things to be aware of when writing legal descriptions. The r/w plans and exhibits must be compared with the title commitments and vesting deeds to ensure the legal description is written correctly. The guidelines listed below address most situations:

- 1. <u>Township and Range Land</u>. Always spell out "Township" and "Range," do not abbreviate. Use P.M.M., not M.P.M. Do not use spaces between quarter/quarter calls; separate quarter sections and government lots in the same section by commas; separate different ranges, townships or sections by semicolons. Write the legal description in the direction of the stationing. Condense quarter sections when possible. The following are examples of legal description wording:
 - a. ...a tract of land in the NE¼SW¼, SW¼NE¼ of Section 6, Township 8 South, Range 61 East; S½SE¼, NE¼SE¼, and SE¼NE¼ of Section 31; W½NW¼ of Section 32; W½SW¼ and SW¼NW¼ of Section 29; NE¼SE¼ and S½NE¼ of Section 30, Township 7 South, Range 61 East, P.M.,M., Carter County, Montana, as shown by......
 - b. ...a tract of land in US Government Lots 4, 3, 2, and 1 of Section 6, Township 9 South, Range 5 West, P.M.,M., Madison County, Montana, as shown by...
- 2. <u>Government Lots</u>. Government lots should not be called just "Lot", even though the grantor may have acquired title that way. They should be written as follows:

- ...a tract of land in US Government Lots 4 and 3, NW¼SW¼, S½SW¼, and SW¼SE¼ of Section 7, Township 3 South, Range 16 East, P.M.,M., Daniels County, Montana, as shown by...
- 3. Quarter/Quarter vs. Government Lot. For example, if the legal description on the vesting deed shows the grantor acquired property in the N½NW¼ of Section 6, Township 10 South, Range 4 West, M.P.M, Phillips County, Montana, but the plans and GLO map depict US Government Lots 4 and 3, you would write the legal description as follows:
 - ...a tract of land in US Government Lots 4 and 3 (sometimes referred to as the N½NW¼) of Section 6, Township 10 South, Range 4 West, P.M.,M., Phillips County, Montana, as shown by...
- 4. <u>Certificate of Surveys</u>. Only describe the portion of section, etc. that is needed for right-of-way purposes. For example, if Certificate of Survey No. 5026 covers the W½SE¼ and the NE¼SE¼ but the area needed for right-of-way is only in the NW¼SE¼, the legal description would be written as follows:
 - ...a tract of land within Certificate of Survey No. 5026, situated in the NW¼SE¼ of Section 21, Township 12 North, Range 16 West, P.M.,M., Ravalli County, Montana, as shown by...
- 5. <u>Certificate of Surveys and Section Land</u>. Occasionally, a grantor has acquired a portion of their contiguous property by a deed, which specifies a certificate of survey. Both the property within the certificate of survey and the surrounding property must be described. For example:
 - ...a tract of land within Certificate of Survey No. 117200 situated in the SW¼SE¼ of Section 28; also a tract of land in the E½SE¼ of Section 28; S½S½ of Section 27; and NE¼NE¼ of Section 34, Township 7 North, Range 3 East, P.M.,M., Broadwater County, Montana, as shown by...
- 6. Lots and Blocks. Lots and blocks should be described as follows:
 - a. Outside Urban Areas. For outside urban areas:
 - ...a tract of land in Lots 4, 5, and 6 of Block 12 of the Johnson Subdivision situated in the NE¼SE¼ of Section 10, Township 14 North, Range 22 West, P.M.,M., Lewis and Clark County, Montana, as shown by...(Insert INS-SL is used for this description)
 - b. Inside Urban Areas. For inside urban areas:

- ...a tract of land in Lots 4, 5, and 6 of Block 12 of the Johnson Subdivision to the City of Helena, Montana, according to the official plat thereof, on file and of record in the office of the Clerk and Recorder of Lewis and Clark County, Montana, as shown by...(Insert INS-LB is used for this description)
- 7. Vacated Streets and Alleys. They need to be addressed when included in the ownership. For example, if Mr. and Mrs. Johnson acquired Lots 4 & 5, Block 6 of Johnson Addition to the City of Helena when they bought their property in 1966; and, in 1972, the City of Helena vacated Apple Street by Resolution No. 1234, which was recorded in the county records, the legal description would be written as follows:
 - ...a tract of land in Lots 4 and 5, Block 6 of Johnson Addition to the City of Helena, Montana, according to the official plat thereof, on file and of record in the office of the Clerk and Recorder of Lewis and Clark County, Montana. TOGETHER WITH the vacated half of Apple Street lying adjacent to Lots 4 and 5, as vacated by Resolution No. 1234, recorded in Book 23 of Deeds, Page 87, official records of Lewis and Clark County, Montana, as shown by...
- 8. <u>Homestead Entries</u>. Homestead entries should include Township and Range as follows:
 - ...a tract of land in HES No. 1212, Township 4 South, Range 13 West, P.M.,M., Custer County, Montana, as shown by...
- 9. <u>Mining Claims</u>. Mining claims should be shown as it appears on the Patent. Be sure to include Mining Claim information on exhibit as follows:
 - ...a tract of land in the Mary Jane Lode Mining Claim, Mineral Survey No. 4, Section 1, Township 10 North, Range 13 West, Lewis and Clark County, Montana, as shown by...

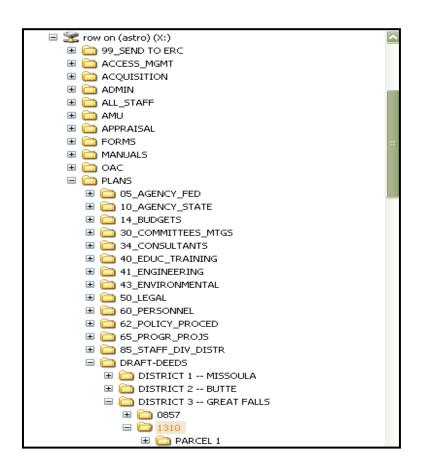
25-3 LOCATION AND DISTRIBUTION

25-3.1 Saving Deeds and Exhibits

The exhibit parcel files must be saved in folders located on the "ROW" drive. You will need to create a folder for the project and each of its parcels.

In Windows Explorer, go to "\astro\row\plans\DRAFT-DEEDS." Choose the appropriate folder for the District your project is in. Create a new folder for your project using the four-digit control number. Within the project folder, create a folder for every parcel that has an exhibit and/or deed.

You should have a set of folders as shown in Figure 25-7. You need to save all exhibit parcel files and deeds in the appropriate parcel folder. Note that to view the parcel exhibit files, appropriate reference files must be on your hard drive.



EXAMPLE FOLDER ORGANIZATION

Figure 25-7

25-3.2 Distributing Deeds and Exhibits

After the deeds/easements and exhibits have been checked and revisions made, they need to be distributed electronically to the appropriate District, with the exception of Railroad and Government Agency parcels, as follows:

Print. Print deeds and exhibits to appropriate Field R/W Supervisor's printer.
 See below for a list of printers to transmit the deeds and exhibits to for each District.

Missoula (District 1): Deeds: "\MISNT1\mis6pr"

Exhibits: "\MISNT1\mis0pl"

Butte (District 2): Deeds: "\BUTNT1\but10pr"

Exhibits: "\BUTNT1\but0pl"

Great Falls (District 3): Deeds & Exhibits: "\GTFNT1\gtf1pr"

Glendive (District 4): Deeds: "\GLDNT1\gld4pr"

Exhibits: "\GLDNT1\gld1pl"

Billings (District 5): Deeds: "\BLGNT1\blg16pr"

Exhibits: "\BLGNT1\blg1pl"

- 2. <u>Forward Email</u>. Prepare an email to the Field R/W Supervisor to notify them that the deeds and exhibits were sent, which parcels were included and what printer they were sent to.
- 3. <u>File</u>. Supply the deed/exhibit file with a copy of the email and copies of the deeds/easements and exhibits.

Distribution of the deeds and exhibits completes Activity 820.

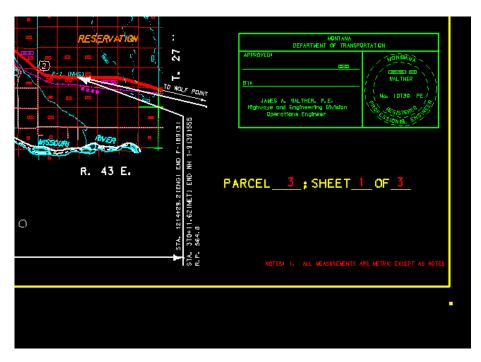
25-4 DEED & EXHIBIT SPECIAL REQUIREMENTS

As there are special considerations for preparing right-of-way plans on DNRC, US Government, Tribal Indian, and Railroad land, there are also differences when creating deeds and exhibits.

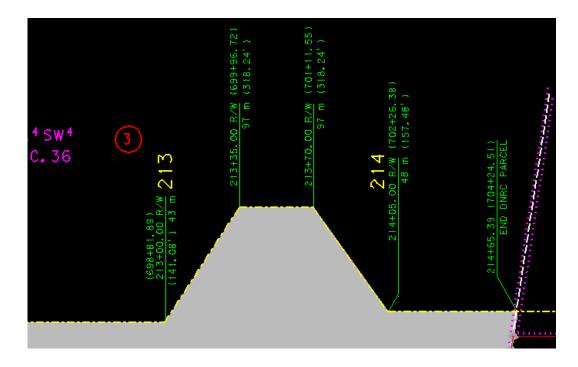
25-4.1 DNRC and State of Montana

Use the following procedures when preparing deeds and exhibits for DNRC and State of Montana lands:

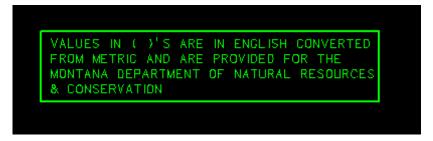
- Exhibits. An exhibit parcel file should be prepared as normally done and then the required adjustments listed below should be completed within the parcel exhibit file. See Figures 3B and 4B in Appendix B for DNRC Section Land and Figure 4B in Appendix B for DNRC Navigable Riverbed Sample Exhibits:
 - a. <u>Title Sheet</u>. A title sheet with a signature block (cell "SEAL") is saved as the first sheet of the exhibit set. The text "PARCEL __ SHEET __ OF __" should be included on this sheet in the bottom portion of the exhibit, as shown in Figure 25-8.
 - b. <u>Callouts</u>. All callouts and centerline information should have English conversions added in parenthesis. A begin and end DNRC callout with calculated station will need to be included as well. As appropriate, use cells "BDNRCL", "BDNRCR", "EDNRCL" and "EDNRCR". If this station is calculated by scaling, it must be noted as scaled. See Figure 25-9.
 - c. <u>English Conversion Notes</u>. The English conversion note (cell "VALUES") should be included, as shown in Figure 25-10.
 - d. <u>State Land Block</u>. The State land block information placed in the plan sheet file remains on for the DNRC exhibit.
- 2. <u>Deeds</u>. Form 537 is used for DNRC non-navigable riverbed and section land, and Form 536 is used for DNRC navigable riverbed rather than preparing deeds. See Figures 3B and 4B in Appendix B for DNRC Section Land and Figure 4B in Appendix B for DNRC Navigable Riverbed Sample Forms. Legal descriptions for navigable riverbeds refer to the low watermark except on the Missouri, Yellowstone & Kootenai Rivers, which refer to the high watermark.



TITLE SHEET Figure 25-8

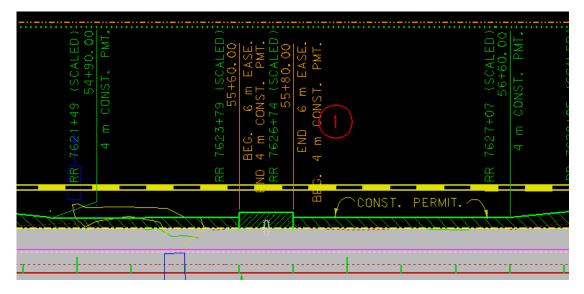


CALLOUTS Figure 25-9



ENGLISH CONVERSION NOTES

Figure 25-10



CONSTRUCTION PERMITS

Figure 25-11



KEY LEGEND

Figure 25-12

3. <u>Distribution</u>. Supply the Relocation Agent in the Acquisitions Section with the exhibit set and form, as well as a ½ size set of plans, cross sections and construction plans for the affected areas. Also supply a copy of the exhibit set and form to be included in the deed/exhibit file.

25-4.2 Railroad Parcels

Process railroad exhibits using the following procedures:

- Exhibits. Railroad exhibits include all information as shown on the plan sheet. Parcel exhibit files are still created from the plan sheet, as parcel specific adjustments need to be made. See Figure 4B in Appendix B. Consider the following:
 - a. <u>R/W Acquisition</u>. The r/w acquisition should be shaded. The shading is prepared in the area file and referenced.
 - b. <u>Construction Permits/Licenses</u>. Construction permits need to be hatched and licenses hatched in the opposite direction. There are situations when you may have a third type of acquisition, such as an easement, that will need to be shown in a different manner. See Figure 25-11.
 - c. <u>Key Legend</u>. A key needs to be created in the bottom portion of every exhibit sheet showing hatching, as shown in Figure 25-12.
- 2. <u>Deeds</u>. Deeds are not prepared.
- 3. <u>Distribution</u>. Prepare a cover memo to the Engineering Manager in the Utilities Section and attach the exhibits prepared as specified above. Also supply a copy of the exhibit set to be included in the deed/exhibit file.

25-4.3 <u>US Forest Service</u>

A ½ size title sheet with a signature block (cell "FSSIGN") is saved as the first sheet of the exhibit set. In addition to the title sheet, a ½ size ownership sheet and plan sheets for the affected area are printed. No shading is required. Deeds are not prepared. Supply the Relocation Agent in the Acquisitions Section with the information specified above as well as cross sections and construction plans for the affected areas. Also supply a copy of the exhibit set to be included in the deed/exhibit file.

25-4.4 BLM, United States of America & Bureau of Reclamation

These parcels do not require exhibits to be created. It is not necessary to create parcel exhibit files unless shading needs to be shown for an easement to be acquired for the benefit and use of someone other than MDT. In place of the exhibits, a ½ size title sheet, ownership sheet and plan sheets for affected area are printed. Deeds are not prepared. Supply the Relocation Agent in the Acquisitions Section with the information specified above, as well as cross sections and construction plans for the affected areas.

25-4.5 Tribal Indian

Exhibits are prepared as usual. Cross-hatching is to be turned off. Form 538 is prepared rather than a deed. Specified information is distributed to the Field R/W Supervisor with other parcel exhibits and deeds following the normal procedure. See Figures 1B and 2B in Appendix B.